

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DEREK STENSON,

Plaintiff,

v.

KING COUNTY, et al.,

Defendants.

CASE NO. C23-1316 MJP

ORDER STAYING CASE

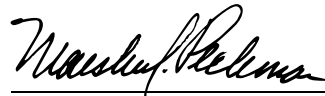
The Court issues this Order sua sponte and in light of Defendants' Notice of Appeal of the Court's Summary Judgment Order, which, among other things, denied Defendants' request for qualified immunity, and Plaintiff's Cross-Appeal of the Summary Judgment Order. (See Dkt. Nos. 56, 66, 69.) Under Ninth Circuit precedent, a "district court is automatically divested of jurisdiction to proceed with trial pending appeal" of a denial of qualified immunity. Chuman v. Wright, 960 F.2d 104, 105 (9th Cir. 1992). The only exception is when "the district court find[s] that the defendants' claim of qualified immunity is frivolous or has been waived[.]" Id. In that

1 instance, “the district court may certify, in writing, that defendants have forfeited their right to
2 pretrial appeal, and may proceed with trial.” Id.

3 Considering these principles, the Court finds that Defendants’ claim of qualified
4 immunity is neither frivolous nor waived and it therefore STAYS this case pending the appeal. A
5 stay is particularly appropriate where Plaintiff has also filed a notice of cross-appeal. The Court
6 hereby STRIKES the trial date and all remaining pretrial deadlines, pending a decision on
7 Defendant’s appeal. The Court also withholds ruling on any of the pending motions for the
8 duration of the stay, which shall be administratively terminated. The Parties are ORDERED to
9 file a joint status report within 15 days of issuance of the Ninth Circuit’s mandate on the appeal
10 or any order or notice terminating the appeal.

11 The clerk is ordered to provide copies of this order to all counsel.

12 Dated January 15, 2025.

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14 Marsha J. Pechman
15 United States Senior District Judge
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